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## Protection of the Rights of Elderly Prisoners at Class II A Sidoarjo Correctional Institution

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**Abstract:** Protection of elderly prisoners or what we often call the elderly is one of the issues that should receive special attention in criminal justice in Indonesia. From a legal perspective, these elderly prisoners are often in physical or psychological conditions that require fair treatment because it is influenced by their rights as Indonesian citizens. The legal and correctional system in Indonesia has regulated several provisions regarding elderly convicts. As regulated in Law No. 12 of 1995 concerning Corrections. One of them is the rights of prisoners in general, but cannot explicitly address the problems being faced by elderly prisoners. However, existing regulations must be able to provide guarantees for the basic rights that elderly prisoners must obtain. Such as, the right to receive health and medical care, the right to feel safe from discrimination and the right to their safety while serving their sentence. From a juridical perspective, attention to the protection of human rights (HAM) for elderly prisoners is very important. In accordance with the principle of protecting human rights contained in the constitution and many national instruments, it emphasizes the importance of humane treatment, including for elderly prisoners. However, in its implementation, elderly convicts often have difficulties when they are in correctional institutions.

**Keyword:** Protection, Prisoners, Prisoners' Rights, Elderly.

### INTRODUCTION

The protection of elderly prisoners is one of the issues that should have special attention in criminal justice in Indonesia. From a legal perspective, elderly prisoners are often in physical or psychological conditions that require fair treatment because they are affected by their rights as Indonesian citizens.

According to the results of observations that have been made, the number of prisoners is 190,309 while the number of elderly prisoners is 4,408 where this number reaches 5.4% of the number of prisoners in Indonesia and continues to increase as more Indonesian people enter an unproductive age, this unproductive age is the age that has reached 60 years. In addition, Komnas HAM also reported that elderly prisoners often require special care, especially medical

care, which makes it difficult for elderly prisoners to serve their sentences due to their deteriorating physical condition.

## **METHOD**

This study uses a normative juridical method with a statutory approach to understand the impact of this phenomenon. Data is collected through library research and analysis of relevant regulations. The analysis technique is conducted qualitatively and descriptively to identify legal gaps and the effectiveness of law enforcement in this case

## **RESULTS AND DISCUSSION**

### **Definition of Prisoner**

Prisoners in general terms are a person or community who is serving a criminal period due to having committed a criminal offense, prisoners themselves are citizens who have been restricted from their rights as a society except for their rights as human beings. People or citizens who have violated the law in the category of Criminal Crime in accordance with the qualifications described in the Criminal Code will undergo a process. Where in the process in question there are restrictions on freedom of movement in serving a sentence in a correctional institution by requiring a prisoner to obey the rules in the correctional institution.

### **Concept of Legal Protection of Prisoners**

This penitentiary serves as a place of rehabilitation for individuals who have received legal decisions from the court. In Law Number 12 of 1999 concerning Corrections, Article 14 (1) which regulates the rights of prisoners, including prisoners, it is explained that (1) which contains prisoners are entitled to a) get humane treatment; b) get recognition and protection of human rights; c) get fair and equitable treatment; d) get facilities to undergo religious worship; e) get health facilities; f) get education; g) get work and training; h) get visitation rights; and i) get correctional measures.

The article describes the rights possessed by prisoners while serving a prison term in the Penitentiary. Not only that, prisoners also have the right to work and training. The enforcement of these rights is an important principle that exists in the correctional system so that prisoners get proper treatment and have the opportunity to recover and be ready to become productive individuals when they return to society.

Other laws explain the legal protection of fundamental freedoms. Where in the legal protection of prisoners is regulated in Law Number 22 of 2022 and Law Number 39 of 1999 concerning Human Rights. Based on these laws, it is explained the rights that must be fulfilled by prisoners while carrying out punishment in correctional institutions. In Law No. 22 of 2022 they are entitled to a legal umbrella including obtaining care, both spiritual and physical care, the right to submit complaints and the right to participate in mass media broadcasts, in this case the Correctional Institution officers must be able to provide rights and legal protection of these rights in accordance with the Correctional Act.

### **The legal basis for the Rights of Prisoners**

The rights of prisoners are basic rights that must be respected and protected even though a person is serving a criminal sentence. Although prisoners have lost some of their freedom, they are still entitled to legal protection in accordance with the principles of human rights. In Indonesia, the rights of prisoners are regulated through various laws, government regulations, and international conventions ratified by Indonesia.

Based on the 1945 Constitution of the Republic of Indonesia (UUD 1945)

1. Article 28A of the 1945 Constitution: Every person has the right to life and the right to defend his/her life and livelihood.

2. Article 28G of the 1945 Constitution: Every person has the right to be free from degrading treatment and free from torture.
3. Article 28I of the 1945 Constitution: The right to personal freedom, freedom from torture, the right to justice, and the protection of human rights that cannot be reduced under any circumstances.

Meanwhile, Law No. 39/1999 on Human Rights provides a broader legal basis for the protection of human rights in Indonesia, including for prisoners. Some important provisions that regulate the rights of prisoners include:

1. Article 4: States that everyone, including prisoners, is entitled to fair, equal, and non-discriminatory treatment.
2. Article 9: Guarantees the right of every person to be free from torture or inhumane treatment.
3. Article 10: Guarantee the right of every person to obtain legal recognition and protection.

Law Number 12 of 1995 concerning Corrections regulates in detail the rights of prisoners and in this Law, among others:

1. Article 14: The basic rights of prisoners which include the right to life, the right to health, the right to work, and the right to education.
2. Article 16: The right of prisoners to receive treatment that is humane and in accordance with human dignity.
3. Article 18: Prisoners have the right to obtain proper health services in accordance with medical needs.

In some aspects such as education, health that freedom of speech is also regulated in regulations related to the rights of prisoners. In the aspect of education which is regulated in article 14 of Law No. 12/1995, it is explained that prisoners have the right to follow or obtain education and skills training that can help them when they return to society. as well as education or religious and social guidance, prisoners have the right to worship in accordance with their religion and beliefs to help reintegrate into society. Article 14 of Law No. 12 of 1995 also explains the right to freedom of speech and communication either by telephone, or visits made by family and relatives.

Correctional Institution or Lapas is an institution within the scope of criminal justice, which aims to rehabilitate prisoners so that they can return to society. Sidoarjo Class IIA Correctional Institution as one of the correctional institutions in Indonesia located at Jl. Sultan Agung No. 32, Sidoarjo District, Sidoarjo Regency, East Java. Class IIA Sidoarjo correctional institution faces challenges related to elderly prisoners who generally have health problems, physical limitations, and social isolation. In facing these challenges, correctional institutions or class IIA Sidoarjo correctional facilities must be able to provide care and guidance according to the needs of elderly prisoners.

### **Challenges faced by Elderly Narapiadana in Class IIA Sidoarjo Correctional Facility**

In providing guidance to elderly prisoners, class IIA Sidoarjo correctional institutions have another function, namely rehabilitating prisoners so that they can return to contribute to society, but prisoners often face various challenges while serving their sentences both from social, psychological and physical aspects. Here are some of the challenges often faced by elderly prisoners

### **CONCLUSION**

The need to strengthen regulations related to the protection of prisoners' rights to clarify and emphasize the application of regulations to the basic rights of prisoners, especially to the Correctional Act, so that no human rights violations occur. In addition, the provision of special facilities for elderly prisoners must also be given more attention, the need for development and coaching programs and special health services for elderly prisoners by taking into account the physical condition, psychology and needs of elderly prisoners.

An effective grievance mechanism system is needed to make it easier for prisoners to access assistance and also ensure the protection of prisoners and their rights so as to prevent discriminatory or violent practices in correctional institutions. Furthermore, periodic monitoring and evaluation is important, especially in the implementation of the fulfillment of prisoners' rights, to maintain accountability and transparency in the system.

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